United Nations S/2004/867

Security Council

Distr.: General
2 November 2004
English
Original: French

Letter dated 29 October 2004 from the Permanent Representative of Burundi to the United Nations addressed to the President of the Security Council

On instructions from my Government, I have the honour to transmit to you herewith the statement of the Government of Burundi on the joint report of the United Nations on the Gatumba massacre (see annex).

I should be grateful if you would have this letter and its annex circulated as a document of the Security Council.

(*Signed*) Marc **Nteturuye**
Ambassador
Permanent Representative

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Annex to the letter dated 29 October 2004 from the Permanent Representative of Burundi to the United Nations addressed to the President of the Security Council

Response of the Government of the Republic of Burundi to the joint report of the United Nations Operation in Burundi, the United Nations Organization Mission in the Democratic Republic of the Congo and the Office of the United Nations High Commissioner for Human Rights on the Gatumba massacre

29 October 2004

I. Factual background

1. On the night of 13 August 2004, a transit centre for Congolese refugees at Gatumba, Mutimbuzi Commune, Bujumbura Mairie, was brutally attacked by a large group of armed individuals. A total of 152 Congolese Banyamulenge refugees were killed, 106 were wounded and 8 are still missing. These refugees were targeted because of their ethnicity.

2. On 15 August 2004, the United Nations Security Council called on the United Nations Operation in Burundi (ONUB) and the United Nations Organization Mission in the Democratic Republic of the Congo (MONUC) to conduct an immediate joint investigation of the massacre.

3. In the wake of this tragedy, the Government of Burundi immediately started investigations, the findings of which are due to be published shortly. In the interim, the joint ONUB-MONUC investigation mission has just made public its report, which was transmitted by the Secretary-General of the United Nations to the President of the Security Council in a letter dated 15 October 2004.

4. At this stage, the Government of the Republic of Burundi, which intends to produce its own investigation report on this tragedy in the very near future, would like to make the following initial observations and comments concerning document S/2004/821 dated 18 October 2004.

II. The massacre and its perpetrators

5. The Government of Burundi wishes to express its gratitude to the Security Council and the investigation team for the interest shown in unveiling the truth about the tragedy at Gatumba. It notes, however, that there are several omissions in the report on the subject, as well as confused interpretations of facts which are nonetheless clear and assertions which are contrary to the stated facts, as we shall illustrate below.

6. The Government of Burundi will be pursuing its thorough judicial investigation at the national and subregional levels with the full cooperation of the Democratic Republic of the Congo and Rwanda, where necessary, in order to identify the culprits and bring them to justice. The matter will be immediately referred to the International Criminal Court.

7. In the report of the Secretary-General of the United Nations transmitted to the President of the Security Council on 15 October 2004, it is clearly specified that the

Secretary for Foreign Relations of the Parti pour la libération du people hutu — Forces nationales de libération (PALIPEHUTU-FNL) of Agathon Rwasa stated in a press communiqué dated 15 August 2004 that FNL had attacked the "military camp" at Gatumba, alleging that the refugee camp was the base of the "Banyamulenge military command".

8. An FNL member named Jean Minani, who took part in the attack, provided the ONUB team investigating the massacre with a clear indication of the route taken from the Congolese border to the point where the elements divided into two groups, one of which headed for the Congolese Banyamulenge refugee site and the other for the military camp at Gatumba. This division took place at highway 2 at Gatumba.

9. The day after the attack, the area was visited by members of ONUB, including Major Biogho, and the Office of the United Nations High Commissioner for Human Rights, including Ms. Solange, who saw the FNL firing positions around the Gatumba military camp and removed cartridge cases from the site.

10. It is also essential to take into account the testimony of those living in the vicinity of Gatumba on highway 2 and south of the Gatumba camp. The testimony agrees on the fact that the attackers spoke Kirundi, Lingala, Kinyarwanda, Gifurero and Kiswahili. The attackers moved away in small groups towards Kiliba and Rusizi.

11. According to statements made by the Mayi-Mayi brigadier general named Jean Jacques Bulimengu, the attack on the Banyamulenge refugee site at Gatumba was planned by the command of the tenth military region of the Democratic Republic of the Congo.

III. The view of the Government and the Army

12. On 12 June 2004 the Burundian Minister of the Interior had convened a meeting with the United Nations Humanitarian Coordinator, the United Nations and ONUB in order to discuss measures to be taken in the light of the influx of refugees from the Democratic Republic of the Congo. At the end of the meeting the Government of Burundi agreed on the need to transfer refugee populations further from the border in accordance with international principles and committed itself to providing the Office of the United Nations High Commissioner for Refugees with the names of the designated locations for the organization of the new camps. It was also agreed that the Government of Burundi would reinforce civilian and Gendarmerie personnel to assist in the management and protection of the sites.

13. In accordance with that agreement, the Government of Burundi, within the limit of its capacities, did what needed to be done.

14. Concerning the attack, it should be noted that it lasted 45 minutes. Some of the attackers began by securing the camp while others brutally massacred the Congolese Banyamulenge refugees. The attackers formed a coalition comprising members of FNL, FDLR and the Mayi-Mayi. They withdrew in small groups in the direction of Kiliba and the Rusizi plain across the marshlands.

15. At the present stage of the national investigations it appears that they numbered 750 of whom 300 were FNL, 250 Mayi-Mayi and 200 FDLR. The witnesses Jean Minani and General Bulimwengu described the course of events including the planning, the objectives, the reasons, the operations and the

withdrawal. Furthermore, in a press communiqué of 15 August 2004, FNL stated that it had taken part in the operation on the grounds that it believed that the Gatumba camp was sheltering the Banyamulenge military command.

IV. The investigation team's view of the facts

16. Given the comprehensive and detailed admissions by FNL, it is difficult to understand why the report uses the conditional mood in detailing the actions of FNL. This attempt to minimize the responsibility of the attackers gives prominence, over the search for the truth, to considerations the purpose of which seems to us to be dubious and dangerous for the future. The same applies to the claim in the report that substantial material evidence was not provided concerning the attack on the military camp of Gatumba, even though the visit to the area by Major Biogho and Ms. Solange described above provided eyewitness evidence.

17. Moreover, the claim that no reinforcements were provided to assist the refugees is a misstatement of the problem since it is based on the tactics of the attackers. The camp was secured while the massacres took place. To speak of "alleged" attacks against the camp is a serious and unfounded accusation bordering on bad faith.

18. In short, the report is motivated far more by political considerations than by a quest for the truth. The perpetrators are known. To cast doubt on the letter of 14 August 2004 would be to indicate a preconceived opinion.

19. Furthermore, MONUC and ONUB have the advantage of being present on either side of the frontier between Burundi and the Democratic Republic of the Congo. They also have the means to establish the true facts and we have no doubt they are aware of them.

20. The gratuitous and erroneous statements against the Government and Army of Burundi which we totally reject cannot stand in view of the sequence of events, the examination of the facts and the truth of the testimony.

V. Conclusion

21. That being so, the Government of Burundi strongly appeals to the Security Council to take account of this response pending the appearance of the Government's own report. It urges the international community to give priority to the search for the truth and to justice for the victims.

22. For its part, following its investigations, the Government of Burundi will refer the matter to the International Criminal Court to have the culprits called to account for their actions.